



Testimony to Michigan House Committee on Family and Children Services
HB 5908 and 5909
June 7, 2006

Good afternoon. My name is Jay Kaplan, and I am a staff attorney with the ACLU of Michigan. We urge this committee to reject HB 5908 and 5909 because if passed, they will result in state-sanctioned discrimination based on religious beliefs. More importantly children would bear the burden of the law, as it would shrink the already insufficient pool of adoptive parents, leaving more children without loving families.

Proponents of these bills hold them out as a measure to protect religious liberty. That is false. HB 5908 and 5909 would have precisely the opposite effect- state sanctioned religious discrimination. The bill would give every agency carte blanche to discriminate against adoption and foster applicants because of their religious faiths or because they don't otherwise share the agency's religious or moral beliefs.

These bills will permit the exclusion of qualified adoptive and foster parents. People hold a wide range of religious and moral beliefs that could bear on what they consider to be appropriate adoptive and foster placements.

- The bill would allow an agency to exclude Muslims, Catholics, or atheists based on the belief that children should be raised in Lutheran families. It would equally allow an agency to exclude Jewish families, believing that Catholic homes are best.
- This bill would allow agencies that hold the religious or moral belief that mothers should not work outside of the home to refuse to place children with working moms.
- This bill would accommodate agencies with religious or moral objections to placing children with parents of a different race than the child.
- This bill would allow agencies to refuse to place children in families in which parents use contraception.
- This bill would allow agencies that have religious objections to single-parent families to refuse to make such placements.
- The bill most certainly would allow agencies to refuse to make placements in the homes of gay and lesbian families.

None of these reasons have anything to do with the best interests of the child, which Michigan courts have said should be the guiding star for adoption and foster parenting decisions. In fact the specific language of these bills say that these agencies can refuse to make placements even when those placements would be in the child's best interest.

Moreover, HB 5908 and 5909 would allow agencies to seek out foster placements in families who would proselytize religious beliefs that undermine the religious traditions of the child's biological family, with whom the State intends to ultimately reunite the child..

Legislation that endorses religious discrimination is not only wrong, it is an unconstitutional establishment of religion. When licensed placement agencies are contracted by the State to make find placements for children, they become government agents, paid for by Michigan tax payer dollars. Authorizing state agents to use religious criteria for placing these children, would amount to government funding of specific religious activity in violation of the Establishment Clause. Furthermore, these bills would exempt these agencies from having to comply with Michigan Civil Rights laws prohibiting discrimination.

But most of all, House Bills 5908 and 5909 will deprive parentless children of adoptive families. Michigan cannot afford to have qualified, good parents turned away from adopting because of their religious or moral beliefs. According to the Michigan Supreme Court's Adoption Work Group Report, 12,000 children are in foster care, with more than 4,500 of these children permanent state wards with the goal of adoption. The State is only able to place about half of these children in adoptive homes. Allowing agencies to disqualify an applicant because of religious or moral views will have the most immoral of effects....it will leave children waiting even longer for parents to adopt them; for some, it may mean never being adopted.

Not only are House Bills 5908 and 5909 bad policy, but they in no way address the pressing problems affecting Michigan today- our economy, the loss of jobs, gas and energy prices, and children in need of loving homes. Michigan can do better than this.

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